

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-5786

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARILOU F. HULING,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry C. Morgan, Jr., District Judge; Tommy E. Miller, Magistrate Judge. (CR-95-78)

Submitted: April 30, 1996

Decided: May 7, 1996

Before NIEMEYER and LUTTIG, Circuit Judges, and CHAPMAN, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Andrew M. Sacks, SACKS & SACKS, Norfolk, Virginia, for Appellant.
Helen F. Fahey, United States Attorney, John Phillip Ellington, Special Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Appellant appeals the district court's order affirming her conviction, but remanding the case to the magistrate judge to determine whether a presentence report is required. We dismiss the appeal for lack of jurisdiction because the order is not appealable. This court may exercise jurisdiction only over final orders,¹ and certain interlocutory and collateral orders.² In criminal cases, final judgment means that sentence has been entered.³ The parties acknowledge in their briefs that this appeal has brought to a halt the resentencing proceeding before the magistrate judge. The order here appealed is neither a final order nor an appealable interlocutory or collateral order.

We dismiss the appeal as interlocutory. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

¹ 28 U.S.C. § 1291 (1988).

² 28 U.S.C. § 1292 (1988); FED. R. CIV. P. 54(b); Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541 (1949).

³ Berman v. United States, 302 U.S. 211, 212-13 (1937).